

Prob 12B

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

**PETITION TO MODIFY THE CONDITIONS OR TERM OF SUPERVISION
WITH CONSENT OF THE OFFENDER**

(Probation Form 49, Waiver of Hearing, is on file)

Offender Name: Ernest JONES

Docket Number: 1:02CR5036 OWW

Offender Address: Bakersfield, California

Judicial Officer: Honorable Oliver W. Wanger
United States District Judge
Fresno, California

Original Sentence Date: 11/23/93

Original Offense: Ct. 1) 21 USC 846 and 841(a)(1) and (b)(1)(C) - Conspiracy to Distribute Less Than Five Grams of Cocaine Base (CLASS C FELONY)
Ct. 4) 21 USC 841(a)(1) and (b)(1)(C) - Distribution of Less Than Five Grams of Cocaine Base (CLASS C FELONY)
Ct. 5) 21 USC 841(a)(1) and (b)(1)(B) - Possession with Intent to Distribute More Than Five Grams of Cocaine Base (CLASS B FELONY)
Ct. 6) 18 USC 924(c) - Use of Firearm During and in Relation to the Crime of Possession with Intent Distribute Cocaine Base (CLASS D FELONY)

Original Sentence: 110 months custody on Cts. 1, 4 and 5 to be served concurrently; 60 months on Ct. 6 to be served consecutive to Cts. 1, 4 and 5; 5 years supervised release; \$200 special assessment

Special Conditions: Substance abuse counseling and testing and costs associated with the substance abuse program

Type of Supervision: Supervised Release

Supervision Commenced: 03/23/01

RE: Ernest JONES
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Assistant U.S. Attorney: Unassigned

Defense Attorney: Unassigned

Other Court Action:

02/06/98: The defendant appeared before then Chief U. S. District Judge D. Brook Bartlett for re-sentencing because his conviction on Count 6 had been vacated, based on the decision Bailey vs. United States, 116 S. Ct. 501 (1995). Based on a re-calculation of the guidelines and a downward departure pursuant to 5K2.0, due to the defendant's post conviction rehabilitative efforts, the defendant was re-sentenced on Counts 1, 4 and 5, to 110 months on each month, concurrent. A total term of five years supervised release was also imposed. In addition to the standard conditions of supervision and mandatory testing, the following special conditions were imposed: Personally report to the probation office within 72 hours of release; successfully participate in any substance abuse counseling program, which may include chemical or breathalyzer testing, as directed by the probation officer; and, pay any associated cost, as directed by the probation office.

11/01/00: Term of supervised release modified to include warrantless search and seizure.

01/17/02: Noncompliance Report submitted advising the Court of the defendant's illicit drug use. The probation officer recommended no negative action be taken at the present time due to intensified counseling and testing requirements. On January 22, 2002, the Court approved the plan.

02/06/02: Jurisdiction accepted from the Western District of Missouri.

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PETITIONING THE COURT

To modify the conditions of supervision as follows:

The defendant shall reside and participate in a residential community correctional center, for a period of 30 days; said placement shall commence as directed by the probation officer pursuant to 18 USC 3563(b)(11). The defendant shall pay cost of confinement as determined by the Bureau of Prisons.

Justification: On December 30, 2005, the defendant submitted a urine sample to the probation officer which returned a positive laboratory result for the presence of marijuana.

Considering the defendant has already received the benefit of increased counseling and testing as a result of illicit drug use, coupled with the fact the defendant did not disclose current marijuana use until confronted with the laboratory results, the probation officer now recommends the Court impose a 30-day community corrections center placement which would serve as a punitive and rehabilitative measure.

The defendant demonstrated his support of this action by signing a Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend the Term of Supervision.

Therefore, it is recommended the Court modify the defendant's terms and conditions as indicated above.

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Respectfully submitted,

/s/ R. Walters

R. WATLERS
United States Probation Officer
Telephone: (661) 861-4305

DATED: January 23, 2006
Bakersfield, California
RCW:dk

/s/ Rick C. Louviere

REVIEWED BY: _____
RICK C. LOUVIERE
Supervising United States Probation Officer

THE COURT ORDERS:

- (X) Modification approved as recommended.
- () Modification not approved at this time. Probation Officer to contact Court.
- () Other:

January 27, 2006

/s/ OLIVER W. WANGER

Date

Signature of Judicial Officer

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cc: United States Probation
Assistant United States Attorney
Assistant Federal Defender
Defendant
Court File

Attachment: Presentence Report (Sacramento only)